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09/823,421	03/29/2001	Jay H. Connelly	42390P10861	9401

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EXAMINER
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STERRETT, JONATHAN G

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/823,421

Applicant(s)

CONNELLY, JAY H.

Examiner

Jonathan G. Sterrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 4-29-2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This **Final Office Action** is responsive to applicant's amendment filed April 29, 2005. Applicant's amendment of April 29, 2005 amended **Claims 1, 14, and 23**. Currently **Claims 1-27** are pending.

### *Response to Amendments*

2. The rejection of **Claim 14** under 35 USC 112, second paragraph is withdrawn.
3. The rejection of **Claims 1-13** under 35 USC 101 is withdrawn.

### *Response to Arguments*

2. Applicant's arguments filed on April 29, 2005 have been fully considered but they are not persuasive.

Applicant argues in **Claims 1, 14 and 23** that Gerace '396 does not anticipate the single element of "**wherein the feedback data is based on information stored in a memory device of each of the clients**".

However, Gerace '396 does disclose where feedback data is based on information stored in a memory device of each of the clients. Specifically in column 6 line 49-55, Gerace discloses three types of information that is stored in a memory device of each of the clients (i.e. their personal computer) that is used as feedback data to a server computer. The session object on the remote server accesses from the memory of the client PC (i.e. information stored in memory device of each of the clients):

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(1) the referring link from which the user accessed the program.

(2) the user's identification number (as stored in a cookie in memory on the user's computer (i.e. memory device of each of the clients).

(3) an indication of the web browser software employed by the user's computer.

These three data items are feedback data because they provide feedback to the software objects running on the server to provide appropriate information to the user's computer.

Column 6 line 47-49 cites that this information is automatically obtained from a software object running on the server computer (see Figure 3a #37d).

Since all these items are stored in memory on the user's computer (i.e. client device) and are automatically obtained as feedback data, they fully meet the limitation of **"wherein the feedback data is based on information stored in a memory device of each of the clients"** as cited in **Claims 1, 14 and 23.**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Gerace US 5,848,396.

Regarding Claim 1, Gerace discloses:

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**receiving a request to obtain consumer feedback**

column 12 line 59-60, sponsors of advertisements can obtain reports through requesting them;

**sending at least one product description data to a plurality of clients**

column 12 line 7-10, ad package object comprises product description data; column 8 line 13-16, ads are displayed on webpages of a plurality of clients;

**receiving a feedback data from each of the plurality of clients**

**transparent to the user of the clients**

column 12 line 57-63, computer subroutine, transparent to user, records successful use of advertisements, including hits and click-throughs;

**wherein the feedback data is based on information stored in a memory device of each of the clients**

column 6 line 49-55, referring link from which the user accessed the program, the user's identification number from a cookie, and an indication of the web browser software employed by the user's computer are all feedback data based on information stored in an individual user's computer (i.e. memory device of each of the clients).

Column 6 line 46-49, the feedback data is automatically obtained from the user session object (Figure 3a #37d) from the user's computer (i.e. memory device from each of the clients).

**processing a consumer feedback summary based on the feedback data**

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column 13 line 9-11, Demographic Response Rate Report for advertisements.

Regarding **Claim 2**, Gerace discloses:

**communicating the consumer feedback summary to a product provider**

column 18 line 51-53, sponsor request for report causes reporting subroutine to communicate the report back to the sponsor.

Regarding **Claim 3**, Gerace discloses:

**wherein the request to obtain consumer feedback is received from a product provider**

column 12 line 7-9, sponsors have ad packages which can be for products, services or any other information found in advertisements.

Regarding **Claim 10**, Gerace discloses:

**wherein the request to obtain consumer feedback comprises a request to compare the success of two or more ways of marketing a product.**

column 19 line 48-50, sponsor can create a customized report to follow success of advertisement; column 19 line 66-column 20 line 6, program 31 allows sponsors to compare success rates of different advertisements and advertising aspects.

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Regarding **Claim 11**, Gerace discloses:

**wherein the consumer feedback summary comprises a marketing success comparison data**

column 19 line 66-column 20 line 6, program 31 allows sponsors to compare success rates of different advertisements and advertising aspects.

Regarding **Claim 12**, Gerace discloses:

**wherein the product description data comprises meta-data**

column 12 line 28-32, profile information in ad series object comprises metadata.

Regarding **Claim 13**, Gerace discloses:

**the product description data comprises program guide information**

column 22 line 43-52, media and TV schedule information comprises program guide information.

**Claims 14-16 and 20-27** recite similar limitations as those recited in **Claims 1-3 and 10-13** above, and are therefore rejected under the same rationale.

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***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 4-9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerace US 5,991,735 in view of Abelow US 5,999,908.

Regarding **Claim 4**, Gerace teaches obtaining customer feedback transparent to the user regarding advertisements.

Gerace doesn't teach:

**wherein the request to obtain consumer feedback comprises a request to test the success of one or more products.**

Abelow does teach:

**wherein the request to obtain consumer feedback comprises a request to test the success of one or more products**

column 9 line 38-39, module obtains findings during the course of product uses; column 19 line 54-56, automatic findings from field trials for product uses; column 33 line 3; module can obtain data from passive interactions, where the user is unaware that data is being gathered on their use of product; column 38



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line 61-67, product performance may be passively gathered without the customer's involvement; column 18 line 24-26, customer feedback addresses success of product while in use.

Abelow teaches that providing feedback while a product is in use is of strategic competitive advantage since it enables vendors to immediately understand a customers likes/dislikes arising from use of a product (column 18 line 33-37).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Gerace, as discussed above, with the request to obtain consumer feedback comprises a request to test the success of one or more products, as taught by Abelow, because it would provide strategic advantage to vendors of products by providing immediate feedback from customers while a product was being used.

Regarding **Claim 5**, Gerace teaches:

**obtaining advertisement success data regarding how advertisements were viewed**

(column 13 line 11-12, ad success data used in regression).

Gerace does not teach:

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**wherein the consumer feedback summary comprises a product success data for each of the one or more products.**

Abelow teaches:

**wherein the consumer feedback summary comprises a product success data for each of the one or more products**

column 18 line 67 – column 19 line 3, vendors can apply module to all of the products in a particular market to obtain feedback regarding success and failure of product in that market to better tailor products for that market; column 25 line 20-23, digital data capturing customer interactions is transmitted back to vendor's computer; column 55 line 15-19, reports of customer feedback quantitative information is presented in a way that is easily understood.

Abelow teaches that providing feedback while a product is in use is of strategic competitive advantage since it enables vendors to immediately understand a customer's likes/dislikes of a product (column 18 line 33-37).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Gerace, as discussed above, with the request to obtain consumer feedback comprises a product success data for each of the one or more products, as taught by Abelow, because it would provide strategic advantage to vendors of products by providing immediate feedback from customers while products were being used.

Regarding **Claim 6**, Gerace teaches:

**obtaining advertisement success data regarding how advertisements were viewed**

column 13 line 11-12, ad success data used in regression.

Gerace does not teach:

wherein the request to obtain consumer feedback comprises a request to compare the success of two or more attributes of a product.

Abelow teaches:

**wherein the request to obtain consumer feedback comprises a request to compare the success of two or more attributes of a product**

column 38 line 17-12, data gathered on features that customers use.

Abelow teaches that providing feedback while a product is in use is of strategic competitive advantage since it enables vendors to immediately understand a customers likes/dislikes of a product (column 18 line 33-37).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Gerace, as discussed above, with wherein the request to obtain consumer feedback comprises a request to

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compare the success of two or more attributes of a product, as taught by Abelow, because it would provide strategic advantage to vendors of products by providing immediate feedback from customers while products were being used.

Regarding **Claim 7**, Gerace teaches:

**obtaining advertisement success data regarding how advertisements were viewed**

column 13 line 11-12, ad success data used in regression.

Gerace does not teach:

**wherein the consumer feedback summary comprises an attribute success comparison data.**

Abelow teaches:

**wherein the consumer feedback summary comprises an attribute success comparison data**

column 42 line 33-35, benchmarking probes capture data what the customers like about the product while using it, including that of various attributes of the product; column 55 line 30-36, various reports are available including graphs which provide ability to compare the success data.

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Abelow teaches that providing feedback while a product is in use is of strategic competitive advantage since it enables vendors to immediately understand a customers likes/dislikes of a product (column 18 line 33-37).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Gerace, as discussed above, with wherein the consumer feedback summary comprises an attribute success comparison data, as taught by Abelow, because it would provide strategic advantage to vendors of products by providing immediate feedback from customers while products were being used, where the feedback provided ability to compare the success of various attributes of the product.

Regarding **Claim 8**, Gerace teaches:

**obtaining advertisement success data regarding how advertisements were viewed**

column 13 line 11-12, ad success data used in regression.

Gerace does not teach:

**wherein the request to obtain consumer feedback comprises a request to compare the success of two or more products.**

Abelow teaches:

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**wherein the request to obtain consumer feedback comprises a request to compare the success of two or more products.**

column 42 line 20-24, benchmark probes solicit customer feedback regarding competing products.

Abelow teaches that providing feedback while a product is in use is of strategic competitive advantage since it enables vendors to immediately understand a customers likes/dislikes of a product (column 18 line 33-37).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Gerace, as discussed above, with wherein the request to obtain consumer feedback comprises a request to compare the success of two or more products, as taught by Abelow, because it would provide strategic advantage to vendors of products by providing immediate feedback from customers while products were being used, where the feedback provides the ability to understand the success of two or more products in the marketplace.

Regarding **Claim 9**, Gerace teaches:

**obtaining advertisement success data regarding how advertisements were viewed**

column 13 line 11-12, ad success data used in regression.

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Gerace does not teach:

**wherein the consumer feedback summary comprises a product success comparison data.**

Abelow teaches:

**wherein the consumer feedback summary comprises a product success comparison data**

column 9 line 38-39, module obtains findings in the middle of product uses; column 19 line 54-56, automate findings from field trials for product uses; column 33 line 3; module can obtain data from passive interactions, where the user is unaware that data is being gathered on them; column 38 line 61-67, product performance may be passively gathered without the customer's involvement; column 18 line 24-26, customer feedback addresses success of product while in use; column 55 line 15-29, customer based product design reports presents quantitative information in a way that is easily understood by the customer, including graphs and charts where comparisons can easily be made.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Gerace, as discussed above, with wherein the consumer feedback summary comprises a product success comparison data, as taught by Abelow, because it would provide strategic advantage to vendors of products by providing immediate feedback from

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customers while products were being used, where the feedback provides the ability to compare the success of a product in the marketplace.

**Claims 17-19** recite similar limitations as those recited in **Claims 4-9** above, and are therefore rejected under the same rationale.

### ***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nickerson US 4566030 discloses a television view data collection system.



McKenna US 4546382 discloses a television and market research data collection system and method.

Green US 4624578 discloses a system for obtaining information from rental televisions.

Hornbuckle US 5388211 discloses an apparatus for remotely controlling and monitoring computer software.

Reilly US 5740549 discloses an information and advertising distribution system.

Case US 5734890 discloses a system for analyzing procurement decisions and customer satisfaction.

Sammon US 6012051 discloses a consumer profiling system with analytic decision processor.

Hanson US 5974398 discloses an apparatus enabling valuation of advertising carried by interactive information and entertainment services.

Downs US 6226618 discloses an electronic content delivery system.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G. Sterrett whose telephone number is (571) 272-6881. The examiner can normally be reached on Monday-Friday, 8:00AM - 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGS

7/10/2005

  
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